

SUMMARY OF COMMENTS DURING THE SECOND 15- DAY PUBLIC COMMENT PERIOD AND THE BOARD'S RESPONSES

I.

Introduction

The State Personnel Board (Board or SPB) proposes to adopt section 26 (section 26) of Title 2, Chapter 1, of the Code of Regulations (CCR), concerning recordkeeping requirements for personnel-related documents. The second 15-day comment period for this regulation was held from June 12 through June 29, 2015. The comments received were taken under submission and considered. A summary of those comments and the Board's responses are below.

II.

Summary of Written Comments from Carolyn Park, Staff Attorney, Local 1000, Service Employees International Union (SEIU).

The Board notes that SEIU submitted its comments on June 30, 2015, one day after the close of the second 15-day comment period. The Board, nonetheless, retains discretion to consider and respond to those comments.

Comment 1:

SEIU states that if the Board's modified language in section 26(a)(3) is adopted there would be a direct conflict with Government Code section 19589, which provides: "Letters of reprimand shall be removed from the personnel file of the state employee and destroyed not later than three years from the date the letters were issued."

Response 1:

Government Code section 19589 specifically refers only to letters of reprimand and requires that the letters be removed from the personnel file of the state employee and destroyed not later than three years from the date the letters were issued. To avoid any confusion and to ensure clarity, reference to Government Code section 19589 is added to the exception language of section 26(a)(3). Section 26(c) has also been modified to make clear that records subject to the regulation are not required to be kept in any particular file or location, as long as the records are readily accessible and produced for review and inspection by the Board.

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Comment 2:

SEIU also states that the section 26(a)(3) language would be in direct conflict with certain provisions regarding recordkeeping in the current Memorandum of Understanding (MOU) between SEIU and the State, effective July 2, 2013, through July 1, 2016. In particular, sections 13.9.14(A), 13.9.15, and 13.9.17(A) of the MOUs pertaining to Bargaining Units 14, 15, and 17, respectively, provide that letters of instruction and work, and work improvement discussions, as well as, for Bargaining Units 14 and 17, counseling memos, informal letters of reprimand, letters of reprimand, letters of warning and etc., shall, in relevant part, contain an expiration date not to exceed one year.

Response 2:

To avoid any confusion, the Board has added to the exception language in section 26(a)(3) reference to a collective bargaining agreement between the state and a recognized employee organization.

III.

Conclusion

The Board appreciates SEIU's feedback. The modified text with the changes clearly indicated are available to the public for a third 15-day public comment period. Written comments will be accepted as provided in the Notice of Further Modification to Text of Proposed Regulation for Third 15-Day Comment Period.